

Dear Members of the Selectboard,

Thank you for considering our application to transfer our shellfish licenses to our business. We are doing so in consultation with attorney Bruce Bierhans so as to limit our personal liability. Our Attorney has advised that “this is no more than basic estate planning and asset protection that should be engaged in by every small business owner.” This is very much inline with how a restaurant or bar gets issued a business license or liquor license by the town of Wellfleet in order to limit liability. We have worked hard and would like to limit our liability so that our personal home, and other jointly owned assets are protected from litigation should something go wrong.

Oyster farming is fraught with liability. We are growing a food product that is consumed raw in an open water way that is accessible to the public. There is the risk of food borne illness, injury, or accidental death. Vibrio alone causes an estimated 80,000 illnesses and 100 deaths in the United States every year. We do our very best to mitigate the risks but there is always risk of human error or accidents in any business. We are also planning to offer farm direct oysters and will be liable for the distribution as well as the production. We have been advised by our attorney that as the individuals holding the underlying licensed sites, our family home as well as our other personal assets are at risk. This would be akin to a restaurant who runs all its transactions through its business but the liquor license is held by the owner as an individual. We live in a litigious society and as owners of a small business are particularly vulnerable to the expenses of being named as a litigant.

For over 35 years this type of transfer has been expressly allowed in the regulations and there has never been a problem. Northern Collective inc, is already operating on the site and has been for 11 years with Michael and I as the sole owners. We employ two additional domiciled Wellfleet residents on a full time year round basis and donate to the local food pantry, 246 Kitchen and other local non profits. We request that our business be given the same rights and treatment to limit liability as are afforded to other businesses for which the town issues a license or a lease. This would include leases for the Cahoon Hollow parking lot, the picnic tables at the pier, and numerous liquor licenses and business licenses that are issued to entities in Wellfleet.

Please refer to the Shellfish Constables recommendation and our memo to see that our business meets the eligibility requirements as set forth in the regulations.

We hope that board members will want to help small farmers take advantage of the same protection that the law affords to every other tradesperson or business owner. If there is a concern with large corporations becoming grant holders, we would like to suggest that the board require that the controlling shareholders or members of a corporation satisfy the domicile requirement. We believe this would resolve that issue while still affording the rights of transfer and allow small farmers to limit liability. We respectfully ask that the Selectboard apply the regulations and approve this transfer.

Sincerely,

Katie Murphy  
Field Point Oyster Farm